

## **REMARKS/ARGUMENTS**

With respect to the § 112 rejection of claim 11, the claim has been amended to be in independent form. The claim now explicitly includes the limitations of method claim 1 and is consistent with the language of a Beauregard claim. *See, e.g., Ex parte Bo Li*, Appeal 2008-1213 (BPAI 2008). Thus, claim 11 is in a format accepted by the United States Patent and Trademark Office and the claim is not indefinite. Since these limitations were already present in the claims, the amendments do not introduce new matter nor do they require additional search or examination. Applicant respectfully requests that these amendments be entered since they merely place the rejected claim in better form for consideration on appeal and that the rejection be withdrawn.

The prior art rejection presented in the Office action dated March 3, 2010 (hereinafter Office action), has been considered but is believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully maintains the traversal of the § 102(e) rejection based upon the teachings of U.S. Publication No. 2004/0039661 by Fuzell-Casey *et al.* (hereinafter “Fuzell”) because Fuzell does not teach or suggest each of the claimed limitations. For example, Fuzell has not been shown to teach or suggest at least selecting a data record out of a plurality of data records in accordance with received context information, as claimed in each of the independent claims. The cited paragraphs [0025]-[0029] merely describe sample device characteristics for Fuzell’s portable computing device (PCD); therefore, it is Applicant’s understanding that the alleged correspondence to the claimed limitations is asserted as being present in cited paragraph [0024]. This paragraph reads:

The present invention is related to a selection system, and more particularly to a system that enables users to create an interactive list of items to select or locate within a store or geographic area, provides users with cues as to the location of such items within the store or area, progresses through the interactive list as such items are located, and provides information about, discounts on or alternatives to such items. The selection system can also market information to the user based on the interactive list of items and/or the user’s proximity to an area or product.

Fuzell teaches interaction between a PCD and a selection server; however, neither of these devices has been shown to both receive context information and select a data record in accordance with the received context information. Rather, the PCD uploads a list to the selection server and the selection server downloads a map to the PCD (paragraph [0037]). Without correspondence to each of the claimed limitations, the § 102(e) rejection is improper.

In addition, Fuzell has not been shown to teach or suggest any of the claimed uses of radio frequency identification technology. The assertion that paragraph [0028] teaches using radio waves in wireless communication fails to provide correspondence to a radio frequency identification communication module, or the claimed use thereof. Moreover, no portion of Fuzell has been shown to teach or suggest providing the selected data record (discussed above) for being retrievable wirelessly by an external entity through radio frequency identification interrogation, as claimed. Notably, Fuzell makes no mention of radio frequency identification technology. Without correspondence to each of the claimed limitations, the § 102(e) rejection is improper. Applicant accordingly requests that the rejection be withdrawn.

Dependent claims 2-7, 9, 10, 16-19, 22, 23, 28, and 29, depend from independent claims 1 and 15, respectively, and also stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Fuzell. While Applicant does not acquiesce with the particular rejections to these dependent claims, these rejections are also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited reference. Therefore, the rejection of dependent claims 2-7, 9, 10, 16-19, 22, 23, 28, and 29, is improper, and Applicant requests that the rejection be withdrawn.

With particular respect to the rejection of dependent claim 17, Applicant further traverses because no evidence, in the form of a citation or otherwise, has been proffered to support the conclusory assertion that Fuzell would teach the claimed limitations. Without a correlation to the asserted teachings, the rejection is unsupported. Moreover, as discussed

above, Fuzell does not teach or suggest use of a radio frequency identification communication module; therefore, the unsupported assertion is incorrect. Without any presentation of evidence, the rejection of claim 17 is unsupported and improper. Applicant accordingly requests that the rejection be withdrawn.

Authorization is given to charge Deposit Account No. 50-3581 (IHN.067.WUS) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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